



The State of New Hampshire  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**



Thomas S. Burack, Commissioner

February 13, 2007

The Honorable Judith T. Spang, Chair  
Resources, Recreation and Development Committee  
Room 305, Legislative Office Building  
Concord, NH 03301

**RE: HB 664-FN, relative to annual dam registration and permit application fees**

Dear Chairman Spang:

Thank you for the opportunity to testify in favor of HB 664-FN, which amends RSA 482 to increase the annual dam registration fees and filing fees to cover the cost of inspecting and permitting the construction and reconstruction of dams in New Hampshire. The bill also establishes a fee of 15 cents for each foot of shore frontage on a lake or pond impounded by a state owned dam. This second fee would be deposited in the state's Dam Maintenance Fund to fund the operation, maintenance, and reconstruction of the 273 dams owned by the State of New Hampshire.

The two major flood events that have occurred in the state in the last year and a half have raised awareness of the significance of New Hampshire's dams and the need to ensure their structural and operational integrity to protect public safety and property. To achieve this, all dams in the state, including the 273 state-owned dams and the 2,795 dams owned by others (private corporations, individuals, and municipalities) must fully comply with the state's dam safety requirements. We need to ensure that all of these structures can withstand the stresses that occur during flood events. There are two areas where improvement is necessary to achieve this:

- All 3,068 regulated dams need to be in full compliance with state standards. Currently, compliance inspections and follow up on deficiencies lag performance goals. At this time, there are approximately 240 dams with known deficiencies of some form, including 9 with major deficiencies.
- A long-term funding source is needed for the operation, maintenance and repair of the 273 state-owned dams. Currently 33, or 12%, of the 273 state-owned dams are in need of repair at an estimated cost of \$7.6 million.

The bill provides resources to achieve both of these goals. Paragraphs 1 through 3 of the bill increase the annual dam registration fees and permit application fees to cover the cost of dam safety inspections and permitting and provide the resources necessary to improve compliance with state dam safety regulations for all dams in the state. Paragraphs 5 through 6 of the bill provide a funding source for the operation, maintenance and repair of state-owned dams.

The Department of Environmental Services recommends that the Committee consider each of these independently. Other bills have been filed during this session that would implement other funding sources for the operation and maintenance of state-owned dams in addition to the shorefront maintenance fee. These include HB 283, which allocates a portion of the unrefunded road tolls, and HB 815, which allocates a portion of the revenue from a new boater education decal to the maintenance of state-owned dams. The Committee may wish to amend HB 664 so that it only includes the annual dam registration and permitting fees, and then consider the proposed shorefront maintenance fee in the context of these other two bills.

Provided below is more detail on each of the two aspects of the current bill.

### **Annual Dam Registration and Filing Fees**

New Hampshire's Dam Safety Program is responsible for ensuring that all 3,068 regulated dams in the state are constructed, operated and maintained in accordance with dam safety regulations. As part of that responsibility, the DES Dam Bureau:

- reviews and approves the plans and specifications for the construction and reconstruction of all dams in the state through its permitting program;
- inspects, on a schedule based on hazard classification, the 839 dams that could cause loss of life or property damage if they were to fail;
- institutes enforcement actions to correct deficiencies identified in the inspections; and
- inspects the downstream areas of the remaining 2,229 non menace dams to ensure that their hazard classification have not changed because of downstream development.

This work is funded partially through dam registration and permitting fees and partially through the general fund. The fees were first introduced in 1990 to reduce the portion of the program funded by the general fund. They were later increased in 1997 to the current levels to, again, reduce the general fund contribution to the program, as well as to fund modest program improvements after the fatal failure of the Meadow Pond Dam in 1996.

The fee increases proposed in HB 664 are based on the costs of performing inspections of existing hazardous dams and reviewing and approving plans and specification for the construction or reconstruction of dams in the state. Table 1 is a detailed breakdown of the costs for inspecting the hazardous dams in the state, including site visits, engineering evaluation and reporting. As shown in Table 1, the costs for a dam inspection range from over \$2,300 to approximately \$2,900, based on hazard classification. As shown on the table, the annual cost of inspecting DES's requirement of 158 dams each year is approximately \$400,000, and the current Annual Dam Registration Fees cover less than 38% of the costs.

Also shown on the Table is the basis for the fee schedule proposed in the current bill. Low Hazard dams are currently inspected once every 6 years; thus an Annual Dam Registration Fee of approximately \$400 for Low Hazard Dams is needed to cover the costs of this activity. Similarly, Significant Hazard dams are currently inspected once every four years, and an Annual



Dam Registration Fee of approximately \$750 is needed to cover the costs of inspection. High Hazard dams are currently inspected once every two years, which justifies an Annual Dam Registration Fee of \$1,500 to cover these costs.

Table 2 provides a detailed breakdown of the costs of permitting the construction or reconstruction of a dam, including site visit, engineering evaluation of the design, review of plans and specifications, and tracking the project after the permit is issued to ensure compliance with permit conditions. As shown on the table, the estimated costs for permitting ranges from approximately \$2,300 for non-hazard dams to over \$3,800 for High Hazard dams.

New Hampshire ranks third in the country in the number of dams with identified deficiencies. In addition to covering the costs of inspection and permitting, the resources provided with this fee increase will allow DES to increase follow-up inspections and institute enforcement actions, where necessary, to reduce the number of non-compliant dams by 75%.

### **Proposed Shorefront Maintenance Fee**

The shorefront maintenance fee, currently proposed in the bill, addresses an issue that the legislature has been working on for the past three years – finding a long-term solution to the unexpected shortfall in the revenue used to fund the operation, maintenance, repair and reconstruction of the 273 state-owned dams.

The proposed shorefront maintenance fee implements a recommendation of a Study Committee that was formed, pursuant to Chapter 121:1, Laws of 2004, to study the effects of electric utility restructuring on the revenue to the state's Dam Maintenance Fund and the alternatives for funding the operation and maintenance of state-owned dams. As part of its work, the Committee examined in detail the need for the state's dam maintenance program, estimated the projected shortfall in revenue to meet the needs of the program, and identified alternative funding sources. A copy of the final report of the Study Committee is attached.

As indicated in the report, the Committee identified potential alternative funding from those sources that benefit most directly from the impoundments created by state-owned dams, including shorefront property owners, boaters, anglers, and others who use the impoundment for recreation. Alternative funding sources examined, but determined by the Committee to be impractical, included leasing additional dams for hydropower generation and increasing fishing license fees, boat registration fees, boat mooring fees, and park fees. However, the Committee did recommend two practical funding solutions: the first one being a shorefront maintenance fee per linear foot of shorefront property, and the second one being allocation of a portion of the unfunded road tolls to the Dam Maintenance Fund. HB 664 addresses the first of these two alternatives.

As recommended by the Committee and as proposed in the bill, municipalities with lakes and ponds formed by state-owned dams would be assessed a fee equivalent to fifteen cents per linear foot of shorefront, and the fee would be deposited in the Dam Maintenance Fund to fund

the maintenance of the state-owned dams that provide the shorefront. There are approximately 5.8 million feet of shorefront on the impoundments behind the 273 state-owned dams; therefore, this fee could raise a total of \$870,000 annually. Under the proposed bill the municipalities would retain five percent of the fee to defray the municipal administrative costs associated with collecting the fee from the shorefront owners. The net annual revenue to the Dam Maintenance Fund would be approximately \$827,000.

A similar bill was introduced in the 2005 legislative session, along with a bill to implement the unrefunded gas toll alternative, but neither bill was passed. Instead, the Legislature assigned the Legislative Dam Management Review Committee, established by RSA 482:93, the task of studying the issue further (Chapter 306:9, Laws of 2006). In its final report dated December 1, 2006, a copy of which is attached, the Legislative Dam Management Review Committee did not recommend any alternative funding source, but recommended that in 2007, the Committee quickly identify one that can be implemented by the Legislature in the 2007 session.

Given the delay in implementing an effective solution, it is fortunate that the state recently received a one-time payment for settlement of a claim against its lessees for a portion of the money that they received from PSNH for the buyouts of their power purchase agreements. This settlement will be sufficient to keep the fund solvent for another year, while the Legislature continues to work on a solution. However, if a solution is not developed soon, the revenue into the fund after that time will only be sufficient to repay the bonds issued to establish the Dam Maintenance Fund, and no funding will be available for dam operation, maintenance and repair. If the shorefront maintenance fee is not adopted, it is important that another source of funding be identified this session to ensure that the state's dams continue to be operated and maintained so that they do not pose a threat to life and property downstream and continue to provide economic and recreation benefits to the state.

Thank you for this opportunity to comment on this bill. Please call either me at 271-3503, or Jim Gallagher at 271-1961, if you have any questions or need additional information.

Very truly yours,

A handwritten signature in black ink, reading "Thomas S. Burack". A large, red, stylized "COPY" stamp is overlaid diagonally across the signature.

Thomas S. Burack  
Commissioner

Attachments

cc: Representative Donald A. Brueggemann  
Representative Frank W. Davis  
Representative Christine C. Hamm  
Representative Henry A. L. Parkhurst  
Senator Peter Hoe Burling